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Date: **February 16, 2000**

Reference No:

Circular Letter No: **200-029**

Distribution: **IV, VI, X, XII, XVI, XIX**

Special:

**TO: ALL CONTRACTING AGENCIES, COUNTY
SUPERINTENDENTS OF SCHOOLS, STATE AGENCIES AND
EMPLOYEE REPRESENTATIVES**

**SUBJECT: EMPLOYER PAID MEMBER CONTRIBUTION CUMULATIVE
TIME-IN-GRADE EXEMPTION FOR NEW HIRES, OFF-
SALARY-SCHEDULE PAY, AND COMPENSATION
EARNABLE FOR OPTIONAL MEMBERS**

At CalPERS, we hear you and are pleased to announce three new regulatory actions approved by the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS). Effective October 22, 1999, regulation sections 569 and 571 include the new hire "time-in-grade" exception for the payment of Employer Paid Member Contributions (EPMC), and paying and reporting the value of EPMC, as requested by our contracting agencies. This allows employers a new option in which up to a five year vesting period is created in which to pay or report the value of EPMC for newly hired employees. Section 571 also includes a new special compensation item, often utilized by our school employers, in the form of negotiated "off-salary-schedule pay" in lieu of pay increases. Section 573 clarifies compensation earnable for optional or elective members. Highlights of those sections are noted below for your information and use:

1. New Section 569 - Employer Paid Member Contributions allows a cumulative "time-in-grade exception" for newly-hired employees upon the election by a contracting agency or school employer for the **payment** of normal member contributions (Employer Paid Member Contributions, or EPMC) based on compensation within the pertinent group or class. To elect the "time-in-grade exception," the employer's governing body must adopt a resolution that specifies the "time-in-grade" schedule (up to five year period) and group or class involved. The "time-in-grade" exception may take place once a resolution has been reviewed and approved by CalPERS for new employees hired after October 22, 1999.

2. Amended Section 571 - Definition of Special Compensation authorizes the same cumulative "time-in-grade exception" for newly-hired employees for contracting agency and school employers that have elected to **pay and report** the value of EPMC as an item of "special compensation" within the pertinent group or class. To elect the "time-in-grade exception," the employer's governing body must adopt a resolution that specifies the

"time-in-grade" schedule (also up to five year period) and group or class involved.

This "time-in-grade" exception may take place once a resolution has been reviewed and approved by CalPERS for new employees hired after October 22, 1999.

Two new sample resolutions (samples B and D) have been drafted for implementing the above "time-in-grade exceptions." [Note: These are in addition to the existing sample resolutions (see revised samples A and C) which still apply for the purpose of paying EPMC, or paying and reporting the value of EPMC].

In addition, "off-salary-schedule pay" is added to the list of special compensation items in Section 571. This new item has been defined in a manner consistent with current collective bargaining practices:

Off-Salary-Schedule Pay – Compensation in addition to base salary paid in similar lump-sum amounts to a group or class of employees. These payments are routinely negotiated through collective bargaining in lieu of increases to the salary schedule. These payments are based on a similar percent of scheduled salary not to exceed six percent (6%) per fiscal year. The contracting agency or school employer may adopt similar action for non-represented groups or classes of employment as were negotiated through collective bargaining.

Off-Salary-Schedule Pay will be applicable to compensation earned or paid to members after October 22, 1999.

3. **New Section 573 - Optional Membership** provides that compensation and compensation earnable, for members in the optional categories authorized in Section 20322, must be reported by contracting agencies and school employers pursuant to the same statutory and regulatory requirements that apply to all other members. In addition, the following requirements apply:

- (a) Please see Final Regulatory Action, Section 573 (a).

- (b) For persons who became optional members before July 1, 1994 by virtue of their position as a "city attorney" or "assistant city attorney" the following standards shall also apply:

- (1) If compensation or compensation earnable (whether reported as payrate or special compensation) are set forth in a contract for legal services, then that contract shall be the equivalent of a written labor agreement.

(2) Compensation and compensation earnable shall be limited to payment for work performed by the optional member in his or her individual capacity as the city attorney or assistant city attorney, and shall not include payment for work performed by other persons (e.g., partner, associate, consultant) in the office of city attorney or a law firm that provides the services of a city attorney.

Please read the full text of the Board's final regulatory actions carefully for additional requirements as well as the new (samples B and D) and revised (samples A and C) resolutions.

If you have any questions please call the Compensation Review Unit at (916) 326-3837, or write to: Actuarial & Employers Services Division, P.O. Box 942709, Sacramento, CA 94229-2709.

Kenneth W. Marzion, Chief
Actuarial & Employer Services Division